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EXAMINER

PHANTANA ANGKOOOL, DAVID

ART UNIT

PAPER NUMBER

2175

MAIL DATE

DELIVERY MODE

09/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,123

Applicant(s)

AALTONEN, ANTTI

Examiner

David Phantana-angkool

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This application has been reassigned to Examiner David Phantana-angkool.
2. This communication is in response to RCE filed on June 24th, 2009.
3. Claims 1-22 are pending claims.

Continued Examination Under 37 CFR 1.114

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/24/2009 has been entered.

Claim Rejections - 35 USC § 101

5. **35 U.S.C. 101 reads as follows:**

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 8- 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 8 is directed to "a graphical user interface" which is software per se, a non statutory subject matter.
7. Any claim not specifically addressed, above, is being rejected based on the same rationale as presented for independent claim 8.

To expedite a complete examination of the instant application the claims rejected under 35 U.S.C 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 112

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8. **The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. **Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

As for independent claims 1, 8, 12, 17, 21, and 22:

10. In regard to independent claims 1, 8, 12, 17, 21, and 22 the phrase "the first display area", "the third display area" lack clear antecedent. Please clarify.

11. The following terms are unclear: "substantially adjacent", "outermost display area", "substantially next to each other", "substantially perpendicular", and "substantially equivalent".

12. It is unclear what "the first direction" and "the second direction" mean. A direction can be any of the following: x-axis direction, y-axis direction, clockwise direction, and counter clockwise direction. It appears, from the Specification, that the display areas are displayed in a horizontal manner, x-axis direction. The Office suggests clarifying the claims to clearly claim the desired direction.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

13. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 1-5, 7-15, 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

Driskell, US 6,239,803 in view of Smith et al, US# 5,923,327 (hereinafter Smith).

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Regarding Claim 1, Driskell discloses a method to achieve least effort selection from an item list of arbitrary length as a technique to determine the number of items in a list to display the most appropriate number of items per page.

Driskell discloses the claimed aspect of a method *defining three display areas that are substantially adjacent to each other in a first direction of a menu on a display of an electronic device, which menu comprises at least two function elements for selecting functions*, in FIG. 1A, wherein an icon A, 1A08, Label #1, Icon D and Label #7 are displayed. (Driskell, FIG. 1A, multiple function elements).

Driskell discloses the claimed aspect of *defining at least a first identification part and a second identification part that are contained in each function element of the at least two function elements, wherein the first identification part comprises an image and the second identification part comprises textual information*, in FIG. 1, wherein Label #1 defines Icon A, and Label #7 defines Icon D.

Driskell discloses the claimed aspect of *displaying the first identification part of the at least two function elements in said first direction on an outermost display area of plural outermost display areas, displaying the second identification part of the at least two function elements (Label #1, Label #2) on at least one display area between said outermost display areas in such a manner that a second identification part of a first function element and a second identification part of a second function element are aligned at least substantially next to each other in a second direction substantially perpendicular to said first direction* in FIGURE 1A, wherein Icon A is on most outermost display area and next to Label #1 and perpendicular to first direction.

Driskell does not specifically teach the claimed aspect of second function element has an identification part on the outermost. However, Driskell illustrates in FIG. 1, 1A08, Icon A (outermost) and label #1 (substantially perpendicular to Icon A), it would be obvious to one of ordinary skill in the art at the time of the invention in FIG. 1A, 1A02, to add an identification part/image/icon to the outermost on Label #2, because this would allow more efficient use of the space in small screen devices. Furthermore, two function elements (label #1 and label #2) are substantially next to each other and they both are substantially perpendicular.

Driskell suggests *the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction, and substantially equivalent to an amount of space occupied by the first identification part of the second function element in said second direction* in FIG. 1A08, wherein Label #1, #7 are illustrated with the same amount of area for Icon A and Icon D. Furthermore it would have been an obvious matter of design choice to a skilled artisan at the time of the invention was made to use the method of displaying the second identification party such that the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction, since such a modification would have involved the mere application of a known technique to a piece of prior art ready for improvement. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396).

Driskell does not specifically show that a first identification part of a first function element is on the first display area and a first identification part of a second function element is on the third display area. However in the same field of invention Smith teaches that a first identification part of a first function element is on the first display area and a first identification part of a second function element is on the third display area in column 9, lines 12-22. Smith teaches display areas, one display area corresponds to an icon, and the other display area corresponds to a telephone number as shown in Fig. 13A.

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Accordingly it would have been obvious to a skilled artisan at the time of the invention was made to modify the method of Driskell to incorporate the teachings of Smith above, thus allowing the user to select either select the information icon or the telephone number which correspond to the same input field (Smith, 9: 18-22).

Regarding Claim 2, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of dimensions of the first identification part of the function element in the second direction are substantially larger than dimensions of the second identification part of the function element in said second direction in FIGURE 3A00, wherein iIconHeight is given large than the iLabelHeight.

Regarding Claim 3, most of the limitations have been met in the rejection of Claim 2. See the rejection of Claim 2 for details. Driskell discloses the claimed aspect of a size of the first identification part in the second direction is twice a size of the second identification part in said second direction in FIGURE 3A00, wherein iLabelHeight=8 and iIconHeight=16.

Regarding Claim 4, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of first identification part is an image and the second identification part is a label in FIGURE 1A, wherein first identification part is an icon A and second identification part is Label #1.

Regarding Claim 5, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of at least one function element is connected to at least one of the functions of the device, wherein a plurality of list item target areas that include active rectangular areas responsive to pointing device selection. (Driskell, Page 7, Paragraph 55).

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Regarding Claim 7, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of navigation between the first function element and the second function element is conducted in the second direction in FIGURE 1A.

Regarding Claim 8, Driskell discloses the claimed aspect a graphic user interface of an electronic device for presenting various menus (Driskell, See Field of Invention). The rejection for Claim 1 applies to Claim 8. See the rejection details for Claim 1.

Regarding Claim 9, most of the limitations have been met in the rejection of Claim 8. See the rejection of Claim 8 for details. The rejection for Claim 2 applies to Claim 9. See rejection details for Claim 9.

Regarding Claim 10, most of the limitations have been met in the rejection of Claim 8. See the rejection of Claim 8 for details. The rejection for Claim 3 applies to Claim 10. See rejection details for Claim 3.

Regarding Claim 11, most of the limitations have been met in the rejection of Claim 8. See the rejection of Claim 8 for details. The rejection for Claim 4 applies to Claim 11. See rejection details for Claim 4.

Regarding Claim 12, the method and system disclosed by Driskell could be used to achieve a device. The rejection for Claim 1 applies to Claim 12. See rejection details for Claim 1.

Regarding Claim 13, most of the limitations have been met in the rejection of Claim 12. See the rejection of Claim 12 for details. The rejection for Claim 2 applies to Claim 13. See the rejection details for Claim 2.

Regarding Claim 14, most of the limitations have been met in the rejection of Claim 12. See the rejection of Claim 12 for details. The rejection for Claim 3 applies to Claim 14. See the rejection details for Claim 3.

Regarding Claim 15, most of the limitations have been met in the rejection of Claim 12. See the rejection of Claim 12 for details. The rejection for Claim 4 applies to Claim 15. See the rejection details for Claim 4.

Regarding Claim 17, Driskell discloses a system comprising a display unit with a graphic user interface for presenting various menus. The rejection for Claim 1 applies to Claim 17. See the rejection details for Claim 1.

Regarding Claim 18, most of the limitations have been met in the rejection of Claim 17. See the rejection of Claim 17 for details. The rejection for Claim 2 applies to Claim 18. See the rejection details for Claim 2.

Regarding Claim 19, most of the limitations have been met in the rejection of Claim 17. See the rejection of Claim 17 for details. The rejection for Claim 3 applies to Claim 19. See the rejection details for Claim 3.

Regarding Claims 20, most of the limitations have been met in the rejection of Claim 17. See the rejection of Claim 17 for details. The rejection for Claim 4 applies to Claim 20. See the rejection details for Claim 4.

Regarding Claim 21, Driskell discloses the claimed aspect of a software program of displaying a menu on a display of an electronic device, the program stored on a computer readable medium comprising a number of instructions for performing the steps in FIGURES 5A-8M, wherein software sections are illustrated. The rejection for Claim 1 applies to Claim 21. See the rejection details for Claim 1.

Regarding Claim 22, Driskell discloses the claimed aspect of a storage medium readable by a computer, inherently, because they teach the aspect of said medium containing information stored therein for performing the steps. The rejection for Claim 1 applies to Claim 22. See the rejection details for Claim 1.

15. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell, US 6,239,803 in view of Smith et al, US# 5,923,327 (hereinafter Smith), and in further view of Twerdahl et al. US PG Pub# 2004/0221243 A1.

Regarding Claim 6, most of the limitations have been met in the rejection of Claim 5. See the rejection of Claim 5 for details. Driskell does not teach the claimed aspect of a function, at least two function elements

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is a phone number directory, an image manager, a phone manager, a message manager or an electronic organizer. However, Twerdahl discloses the claimed aspect of function element being "Address", 318 could be define as a phone manager, "SMS", 308 could be defined as message manager in FIG. 2 and in FIG. 2 "Multimedia", 210 could be defined as an image manager. It would be obvious to one of ordinary skill in the art at the time of the invention to add Twerdahl's element function on Driskell-Smith's invention, because it will allow the users on small screen devices such as cell phone or PDA to view multiple element functions.

Regarding Claim 16, most of the limitations have been met in the rejection of Claim

12. See the rejection of Claim 12 for details. The rejection for Claim 6 applies to Claim 16. See the rejection details for Claim 6.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

The Examiner notes MPEP § 2144.01, that quotes *In re Preda*, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968) as stating "in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." Further MPEP 2123, states that "a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989).

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16. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

17. The Applicants are encouraged to contact the examiner, at the contact information below, if further clarification or explanation needed. Such communication will expedite prosecution and clarify any ongoing issues.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Phantana-angkool whose telephone number is 571-272-2673. The examiner can normally be reached on M-F, 9:00-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on 571-272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DP
/David Phantana-angkool/
Examiner, Art Unit 2175

/William L. Bashore/
Supervisory Patent Examiner, Art Unit 2175